

MINUTES OF THE MEETING OF THE CITY OF SEAFORD MAYOR AND COUNCIL

July 25, 2006

7:00 p.m.

Mayor Edward H. Butler, Jr., called the Regular Meeting to order with the following present: Councilwoman Pat A. Jones, Councilwoman Grace S. Peterson, Councilman J. Rhea Shannon, Councilman Michael H. Vincent, and Councilwoman Leanne Phillips-Lowe. Dolores J. Slatcher, City Manager, Charles D. Anderson, Director of Operations, and Michael Mulvaney, Building Official were also present.

Councilwoman Peterson offered the opening prayer. Mayor Butler led those present in the Pledge of Allegiance.

Mayor Butler solicited changes to the agenda. There being none the agenda stood as presented.

Mayor Butler called for a motion to approve the Minutes of the Regular Meeting of July 11, 2006. Councilwoman Phillips-Lowe so moved; Councilwoman Peterson seconded the motion. Motion so passed with all present voting in favor.

Chief Gary Morris, Seaford Police Department introduced the new Police Officers, Ptlm. Jason Cole Scott and Ptlm. Todd White. Mrs. Sharon Drugash administered the Oath of Office to the new officers.

Mayor Butler opened the Public Hearing at 7:05 p.m.

Mr. Mulvaney presented Case No. R-31-06, the application for a rezoning from Circle J Community Developers (Gallery Pointe), identified as Tax Map and Parcel 3-31 6.00 5.00. The owners desire to rezone 66.1822 acres of land from R-1 to R-2, in order to increase the lot coverage. Mr. Mulvaney introduced Mr. Barry Joseph, one of the property owners and Mr. David Braun, project engineer from Braun Engineering.

Mr. Mulvaney explained the developer wished to take advantage of the smaller setbacks in R-2 which is the same situation that Council approved for Governor's Grant. Additionally the lots in Mearfield are the size of R-1 lots, however, the zoning is R-2. The trend seems to be that buyer's want larger homes and less land to maintain. The developer wants the ability to build a larger home to suit the purchaser. Mr. Mulvaney noted Planning and Zoning did recommend approval but they had serious concerns about the storm water issues in the area. Mrs. Lynch voted in opposition to the approval until such time as more storm water issues are addressed. Mr. Braun commented that the Commission was concerned with how the increased lot coverage would affect the storm water issues. Mr. Braun researched the issue, reporting that the lot size is not changing (7,500 square feet) that they are merely trying to make certain models fit so smaller setbacks are needed. Sussex Conservation uses a 65% lot coverage when calculating runoff, so even with the potential for increased lot coverage, this does not affect the calculations for the storm water management ponds. Mayor Butler asked how the June 2006 storm event affected the site. Mr. Mulvaney stated he did not inspect the site.

With there being no other questions from the Council or the public, Mr. Mulvaney presented the Findings of Fact:

- ① The property meets the R-2 area and bulk requirements;
- ② The change is consistent with the Comprehensive Plan;

③ The developer wants to take advantage of the 40% lot coverage in R-2 as compared to the 30% lot coverage in R-1;

④ The Planning and Zoning Commission voted to recommend approval with reservations about the storm water issues.

Mr. Mulvaney proceeded to the discussion on Case No. S-34-06, the request from Kim Batson-Purnell, the property owner of 208 E. King Street, identified as Tax Map and Parcel 4-31 5.00 145, to subdivide this parcel into two lots. Mrs. Purnell was not present. Mr. Mulvaney went on to explain the site has an existing two story house that fronts on E. King Street with Pearl Street as the east property line. At one time, the parcel was two lots but through property transfers, it was combined into one lot. In the original configuration, the house was non-conforming as to the setbacks. With a new lot line to the east, the house can meet setbacks on one side, but the west setback cannot be met. However, the house does meet the other zoning requirements. The lot where the houses sit will be 4,800 square feet; the newly created lot will be 6,000 square feet which exceeds the 4,500 square feet lot size requirement of R-2.

Mayor Butler called for questions and/or comments from the Council and the public. There were no questions. Mr. Mulvaney presented the Findings of Fact:

- ① The properties meet the R-2 area and bulk requirements, except for the west setback of the house;
- ② The lot will tie into City services; and,
- ③ The Commission recommends approval of the subdivision.

Mr. Mulvaney presented Case No. S-35-06, the subdivision request from Cecil B. Tull, Mary E. Tull and Virginia Thawley, who are the property owners of Tax Map and Parcel 5-31 12.00 38, better known as *Tull Meadows*. The owners would like to subdivide 32.944 acres from the larger land area because the developer does not wish to purchase the wetlands. The current owners will retain ownership. Mayor Butler asked if this property drains into Chapel Branch. Mr. Mulvaney said yes, most of the area is what is considered Chapel Branch. Councilman Vincent wondered if this area was wetlands why is the zoning R-2. Mr. Mulvaney said the land was annexed into the City with the R-2 zoning. City Manager Slatcher further explained it is common that the land follows the predominate zoning in the area to avoid spot zoning.

Mr. Mulvaney presented the Findings of Fact:

- ① The subdivision meets the area and bulk requirements for R-2;
- ② The Planning and Zoning Commission recommends approval of the subdivision.

Mayor Butler asked for comments and/or questions from the Council and the public. There being no other comments, Mr. Mulvaney turned the Council's attention to Case No. S-36-06. This is the request from Pamela Landon and John Chanoski to subdivide Tax Map and Parcel 4-31 4.00 106 which is located on E. King Street into three C-3 lots. Mr. Mulvaney introduced Ms. Pamela Landon.

Mr. Mulvaney explained the south side of E. King Street starts the C-3 Riverfront Enterprise zone; this property is C-3. Currently, the property is one large lot which adjoins the former Allen property on High Street.

Each lot will be 5,400 square feet; the C-3 zone states that the area and bulk requirements for lots off High Street will be the same as R-2 area and bulk requirements. The proposed lots are 45' x 120' and the owner intends to sell them for single family homes. They also have the ability to accommodate small commercial buildings. The Planning and Zoning Commission questioned the off street parking for a commercial business; Council would need to grant a waiver as noted by the Code. Mr. Mulvaney then presented the Findings of Fact:

- ① Meets requirements for C-3;
- ② The lots will use the existing City utilities; and,
- ③ The Planning and Zoning Commission recommends approval of this subdivision.

Mayor Butler called for questions or comments from the public. There were none.

Mr. Mulvaney presented the request from Manish Patel for final site review for Comfort Suites, Tax Map and Parcel 3-31 5.00 60, to be built on Rt. 13 south of the Eagle Diner. The building will be four floors; it will have three meeting rooms for a total maximum occupancy of 100; an indoor pool and 68 rooms. The entrance will be slightly south of the motel; DelDOT required the entrance be located so that it could also be used as a shared entrance with the neighboring property at a future time. The entrance will be rights-in and rights-out only. DelDOT "took" a 60' piece of land at the rear of the site for the Corridor Preservation Road. This large taking of land was one of the reasons the project was granted a variance; the variance was for relief from the height requirements. The median will have a concrete berm similar to the one in front of Food Lion to direct traffic flow and to prevent traffic coming out of the motel from making a U-turn. City Manager Slatcher pointed out the storm water pond is in the 60' right of way; if and when DelDOT builds the road, it will be DelDOT's responsibility to relocate the pond or handle the storm water in some manner. This will be shown on the recorded plan. Mayor Butler asked about sidewalks. Mr. Mulvaney said sidewalks will be around the building and also across the front of the property on Rt. 13. He also noted the elevator will be required by the Fire Marshal to accommodate a stretcher.

There being no questions or comments from the public, Mr. Mulvaney presented the Findings of Fact:

- ① The site meets the C-2 requirements;
- ② The site complies with the off street parking requirements;
- ③ The project has received approval from DelDOT, Sussex Conservation and the State Fire Marshall;
- ④ The project received a variance on April 6, 2005 for building height from 3 to 4 stories; one of the reasons the variance was granted was because DelDOT asked for a 60' strip of land across the rear of the site for a cross access road; and,
- ⑤ The Planning and Zoning Commission recommends approval of the final plan.

Mr. Mulvaney presented the request from Orient Corporation of America, 111 Park Avenue, for a final site plan review for a 12,000 square foot research and development building in the Industrial Park. Mr. Mulvaney explained the owner is asking that this item be tabled pending approval from Sussex Soil Conservation District. There are still a few minor items to be worked out. City Manager Slatcher added that the proposed new building will be constructed on the west side of Park Avenue. Orient Corporation purchased 14 acres from the City several years ago for the purpose of expanding their operations. The new facility will create a few new jobs. The building will be constructed to comply with the Industrial Park Covenants. Mr. Mulvaney stated the project will come back to Council for final approval on August 8, 2006.

Mayor Butler closed the Public Hearing at 7:35 p.m.

Mr. Mulvaney presented the Findings of Fact for **Case No. R-31-06**, Circle J Community Developers:

- ① The property meets the R-2 area and bulk requirements;
- ② The change is consistent with the Comprehensive Plan;
- ③ The developer wants to take advantage of the 40% lot coverage in R-2 as compared to the 30% lot coverage in R-1; and,
- ④ The Planning and Zoning Commission voted to recommend approval with reservations about the storm water issues.

Councilwoman Peterson made a motion to approve the subdivision request from Circle J Community Developers to rezone 66.1822 acres of Tax Map and Parcel 3-31 6.00 5.00 from R-1 to R-2. Councilwoman Phillips-Lowe seconded the motion.

Roll Call Vote:

Councilman Vincent voted in favor based on the findings of fact;
Councilman Shannon voted in favor based on the findings of fact;
Councilwoman Phillips-Lowe voted in favor based on the findings of fact;
Councilwoman Jones voted in favor based on the findings of fact;
Councilwoman Peterson voted in favor based on the findings of fact.

Mayor Butler confirmed the motion passed with all present voting in favor.

Mr. Mulvaney read the Findings of Fact for **Case No. S-34-06**, Kimberly Batson-Purnell:

- ① The property meets the R-2 area and bulk requirements;
- ② The lot will tie into City services; and,
- ③ The Commission recommends approval of the subdivision.

Councilwoman Jones made a motion to approve the subdivision request from Kimberly Batson-Purnell to subdivide Tax Map and Parcel 4-31 5.00 145 into two (2) R-2 lots. Councilwoman Peterson seconded the motion.

Roll Call Vote:

Councilman Vincent voted in favor based on the findings of fact;
Councilman Shannon voted in favor based on the findings of fact;

Councilwoman Phillips-Lowe voted in favor based on the findings of fact;
Councilwoman Jones voted in favor based on the findings of fact;
Councilwoman Peterson voted in favor based on the findings of fact.

Mayor Butler so noted the motion passed with all present voting in favor.

Mr. Mulvaney presented the Findings of Fact for **Case No. S-35-06**, the subdivision request from Cecil B. Tull, Mary E. Tull and Virginia Thawley, property owners of Tax Map and Parcel 5-31 12.00 38, to subdivide 32.944 acres from the larger parcel:

- ① The subdivision meets the area and bulk requirements for R-2; and,
- ② The Planning and Zoning Commission recommends approval of the subdivision.

Councilman Shannon made a motion to approve the subdivision request from Cecil B. Tull, Mary E. Tull and Virginia E. Thawley to subdivide 32.944 acres from Tax Map and Parcel 5-31 12.00 38. Councilwoman Peterson seconded the motion.

Roll Call Vote:

Councilman Vincent voted in favor based on the findings of fact;
Councilman Shannon voted in favor based on the findings of fact;
Councilwoman Phillips-Lowe voted in favor based on the findings of fact;
Councilwoman Jones voted in favor based on the findings of fact;
Councilwoman Peterson voted in favor based on the findings of fact.

Mayor Butler so noted the motion passed with all present voting in favor.

Mr. Mulvaney presented the Findings of Fact for **Case No. S-36-06**, the request from John Chanoski and Pamela Landon, property owners of Tax Map and Parcel 4-31 4.00 106, to subdivide this parcel into three C-3 lots:

- ① The lots meet the requirements for C-3;
- ② When developed, the lots will use the existing City utilities; and,
- ③ The Planning and Zoning Commission recommends approval of this subdivision.

Councilwoman Jones made a motion to approve the subdivision request of John Chanoski and Pamela Landon, to subdivide Tax Map and Parcel 4-31 4.00 106 into three C-3 lots. Councilman Vincent seconded the motion.

Roll Call Vote:

Councilman Vincent voted in favor based on the findings of fact;
Councilman Shannon voted in favor based on the findings of fact;
Councilwoman Phillips-Lowe voted in favor based on the findings of fact;
Councilwoman Jones voted in favor based on the findings of fact;
Councilwoman Peterson voted in favor based on the findings of fact.

Mayor Butler so noted the motion passed with all present voting in favor.

Mr. Mulvaney presented the Findings of Fact for the Comfort Suites final site plan:

- ① The site meets the C-2 requirements;
- ② The site complies with the off-street parking requirements;
- ③ The project has received approval from DelDOT, Sussex Soil Conservation District and the State Fire Marshall;
- ④ The project received a variance on April 6, 2005 for building height from 3 to 4 stories; one of the reasons the variance was granted was because DelDOT asked for a 60' right of way of land across the rear of the site for a cross access road; and,
- ⑤ The Planning and Zoning Commission recommends approval of the final plan.

Councilwoman Jones made a motion to approve the final site plans for the Comfort Suites located on Rt. 13, Tax Map and Parcel 3-315.00 60. Councilwoman Peterson seconded the motion.

Roll Call Vote:

Councilman Vincent voted in favor based on the findings of fact;
Councilman Shannon voted in favor based on the findings of fact;
Councilwoman Phillips-Lowe voted in favor based on the findings of fact;
Councilwoman Jones voted in favor based on the findings of fact;
Councilwoman Peterson voted in favor based on the findings of fact

Mayor Butler so noted the motion passed with all present voting in favor.

Mr. Mulvaney presented the request from Orient Corporation of America to table their final site plan approval until August 8, 2006 for the research and development building. Councilwoman Peterson made the motion to table the final site plan approval for the research and development building for Orient Corporation of America; Councilman Shannon seconded the motion. All present voted in favor.

New Business:

City Manager Slatcher presented New Business #1, the Retail Rate Maintenance Report and amended electric tariff. She then introduced Mr. David Downes from Downes Associates, Inc. the City's electrical engineer. Mr. Downes explained because of the increases in wholesale power costs over the past six or eight years, the City is adjusting and looking at its retail rates and doing some maintenance. Five items have been identified for treatment and Council will be looking at two items tonight that are by far the largest. They represent a shift of the collection of a substantial part of the City's PCA from the adjustment clause to put them in the tariff. The reason for this is to put them up front for the customer to see, to see what they are paying. The items for discussion tonight are:

- 1) This is a minor adjustment just to make a revision to the PCA for our past actions - shift of collection of the City's PCA from the adjustment clause to put it into the tariff.
- 2) Moves 3.1cents to the base rate.

In the Fall Mr. Downes noted the following matters will come back to Council:

- 1) An impact fee that will affect developers only;

2) The power factor which is an element of our industrial rate; a handful of customers are billed a power factor. This only affects our largest industrial customers; this does not affect our residential customers or small commercial customers. We need restructuring of that because the City's power factor has changed completely.

3) Demand charge – the wholesale world has changed; what once was a major part of the City's costs, the demand charges are now blended into our energy charges which are much higher; the City is billed a much smaller demand charge and we are going to review that for its impact on our larger commercial and industrial customers.

The two issues tonight essentially affect all customers. Mr. Downes summarized what Council is considering: 1) inclusive of 3.1 cents that is in our PCA today, the City is still going to collect that but collect it in our tariff; the tariff will be increased in a revenue neutral sense for the PCA shift and to also make the adjustment for the January 2005 PCA adjustment.

City Manager Slatcher explained Council has the draft of the rules and regulations for the power cost adjustment that show the PCA adjustment and they also have the rates sheets for each class of customer.

Councilman Vincent made the motion to adopt the PCA clause, as presented. Councilman Shannon seconded the motion. All present voted in favor.

Councilman Vincent made the motion to adopt the new rate structure for each class of customer. Councilwoman Phillips-Lowe seconded the motion. Motion so passed with all present voting in favor.

City Manager Slatcher asked Mr. Downes to explain "power factor" and "demand charge". Mr. Downes explained that "demand charge" is the measure of the highest level of usage during the month. As an example, Mr. Downes explained a resident customer has low periods of consumption usually at night, and high periods of consumption, in the mornings when the family gets up and turns on lights and appliances, etc. The same exists with commercial and industrial users; they have consumption cycles. When their highest periods are combined together, this creates the City's peak demand; this is the maximum peak. This historically is the high cost period. We measure who uses the highest energy and the City charges them for that consumption. This is changing and the City will need to change the ratio of what we will charge our industrial and commercial users; this is not a residential charge.

The second issue is the "power factor" in delivering power to customers. There are two types: 1) *real power* which is actual work, it "lights" lights, turns motors in air conditioners; and 2) is *reactive power* which is a smaller component in the total power picture, but nevertheless it consumes transmission capacity, it ties up the ability for the City to deliver energy to the customer. There is a charge for this; the City measures this on the *largest* customers and assesses a charge. The "power factor" measuring, monitoring and penalties for it have changed astronomically in the wholesale market to the City and we need to reevaluate what we charge our customers.

City Manager Slatcher moved to New Business 2, a design proposal from George, Miles and Buhr for design costs related to the Storm Drain Improvements on Washington Avenue/Virginia Avenue and Poplar Street outfall. The storm event in June has brought this problem back to the forefront. The City has looked at these issues before, but funding was an issue. However, she has talked with Senator Robert L. Venables who is Chair of the Bond Committee; he requested that the City put together a proposal and to send him the information, which was done today. She is asking Council to approve the proposal pending authorization of funding from Sen. Venables. The proposal will include the storm drain extension at the south end of Washington Avenue to the regional storm water management pond in Ross Business Park and intercept outfalls from existing ponds at the Shipley Center, Boys and Girls Club and Virginia Crest. It may be necessary to include an expansion of the pond in the Ross Business Park. Modifications would be done to the existing storm drain outfall at Poplar Street and Williams Pond. The outfall is proposed to drain to the downstream side of the dam at Williams Pond to reduce the hydraulic grade line of the upstream system. This is the first step of many in solving some of the storm water issues. This design won't handle the full impact of the June 25th storm; we are looking towards a 100 year storm but when it exceeds that level there are *no* guarantees there won't be more flooding in the City. Mayor Butler asked if the design will be brought to Council in its complete form in about six months. City Manager Slatcher responded unless Council wishes a report monthly, it will not be submitted until the design is complete. Mayor Butler asked what the design cost will be. City Manager Slatcher noted the estimate is \$99,600. The money is to come from Sen. Venables.

Councilman Shannon made the motion to approve pending written approval from Sen. Venables for the professional engineering services for the installation of a regional storm drain to serve the Washington Avenue/Wilmar Village area and portions of Virginia Avenue. Councilwoman Peterson seconded the motion. Motion so passed with all present voting in favor.

City Manager Slatcher presented New Business #3. This involves the Joint Legislative Committee who grants the City its Community Redevelopment Funds. The remaining balance in this account this year is \$44,425.76. The specific purpose identified is for Seaford Child Development and Partnership, Inc. to use these funds on renovations to the building and also to use it for renovations related to recovery from the flood damage. (The City owns the building.) This is a matching grant with 60% from the recipient and 40% from the State. Seaford Child Partnership will have to match the money in the amount of \$66,638.66 which can be in-kind materials, documented labor or actual cash for a projected total of \$111,064.42. The City will oversee the grant and the means of expending the funds. Councilwoman Jones asked what the time frame is for them to come up with the money. City Manager Slatcher said she was not aware of a time frame. The City's auditors will audit the fund at the end of the year, and the State of Delaware will also audit the fund.

Councilwoman Jones made the motion to accept the grant from the Joint Legislative Committee for the specific use for the Seaford Child Partnership and Development, Inc. to use for a construction project and flood damage recovery on the building, with their responsibility to document labor hours. The City will administer the grant and put together the forms and submit them to the Joint Legislative Committee. Let it be known it is up to Seaford Child Partnership to

come up with the matching funds of \$66,638.66. Councilwoman Phillips-Lowe seconded the motion. Motion so passed with all present voting in favor.

City Manager Slatcher announced the Special Annexation Results for the lands of Fred W. Hertrich III. City residents voted 17 in favor, 2 against, none void; territory residents 1 in favor, 0 against, none void. The Annexation Resolution for these lands passed and will be recorded at the Office of the Recorder of Deeds.

City Manager Slatcher presented Old Business #2, a correction to the Falco materials bid presented at the July 11, 2006 Council meeting. The bid analysis presented showed the low bidder as WESCO in the amount of \$12,382.13. The materials and transformers were separated and because the bid stated Falco materials only the materials portion of the bid was identified. The corrected bid analysis still shows WESCO as the low bidder in the amount of \$25,423.13. The FY07 budget allocated a total of \$17,800.00; the overrun is \$7,623.13 for this specific project. Councilman Vincent made the motion to award the bid to WESCO in the amount of \$25,423.13 for materials and transformer. Councilwoman Phillips-Lowe seconded the motion. Motion so passed with all present voting in favor.

REMINDER OF MEETINGS:

➤ Dinner for former Mayor Daniel B. Short on August 10, 2006, at Suicide Bridge Restaurant

Committee Reports:

Councilman Shannon reported that he met with the Police Department. He also stressed that if anyone has any concerns and wants to talk with him, please do not hesitate to contact him.

Councilman Vincent noted the Electric Committee is still waiting to hear from Secretary of DNREC Hughes regarding the generation of electric at the Power Plant.

Councilwoman Phillips-Lowe reported that everyone survived Riverfest and busy preparing for the audit.

Mayor Butler reminded everyone that former Mayor Short would be at the August 8th Council meeting for a presentation. Mayor Butler commended everyone of Riverfest. He said it just shows how well the City can pull together.

There being no further business, Mayor Butler called for a motion to adjourn. Councilwoman Phillips-Lowe motioned to adjourn; Councilman Vincent seconded the motion. Motion passed unanimously to adjourn. Mayor Butler adjourned the meeting at 8:10 p.m.

By: _____
Dolores J. Slatcher, City Manager